

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

Bky No. 04-44994

In re:

Donna Marie Maciazka,

Debtor.

**NOTICE OF HEARING AND
MOTION OBJECTING TO
CLAIMED EXEMPTIONS**

TO: The Debtor and other entities specified in Local Rule 9013-3.

1. Randall L. Seaver, the duly appointed Chapter 7 trustee herein ("Trustee") moves the Court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this motion at 10:30 a.m. on December 1, 2004, in Courtroom 7 West, U.S. Bankruptcy Court, 300 South Fourth Street, Minneapolis, MN 55415.

3. Any response to this motion must be filed and delivered not later than November 24, 2004 which is 7 days before the time set for the hearing or filed and served by mail not later than November 19, 2004 which is 10 days before the time set for the hearing. **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding. This Chapter 7 case was commenced on September 7, 2004. The first meeting of creditors was originally scheduled for October 12, 2004. The case is now pending in this Court.

5. This motion arises under 11 U.S.C. §522, Bankruptcy Rule 4003 and Local Rule 4003-1(a). This motion is filed under Bankruptcy Rule 9014 and Local Rules 9013-1 and 9013-2.

6. Attached hereto as Exhibit A is a true and correct copy of Debtors' Schedule C.

7. Objection is made to the Debtor's claimed exemption of \$6,300 as "cash remaining from divorce settlement kept in son's checking account at TCF Bank." An examination of checking account records for that account from December, 2003 - September, 2004 indicates that the total balance in the account on the date of filing was approximately \$1,677.77. Additionally, it appears that the Debtor's monies, deposited into that account in December, 2003, no longer existed at the time of the bankruptcy filing.

WHEREFORE, the Trustee requests that the Court deny the Debtor's claimed exemption of \$6,300 as "cash remaining from divorce settlement kept in son's checking account at TCF Bank."

FULLER, SEAVER & RAMETTE, P.A.

Dated: November 4, 2004

By: /e/ Randall L. Seaver

Randall L. Seaver 152882
12400 Portland Avenue South, Suite 132
Burnsville, MN 55337
(952) 890-0888

Attorneys for Randall L. Seaver, Trustee

VERIFICATION

I, Randall L. Seaver, the duly appointed Chapter 7 trustee of this Bankruptcy Estate, the moving party named in the foregoing notice of hearing and motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on November 4, 2004

/e/ Randall L. Seaver

Randall L. Seaver

In re Donna Marie Maciazka,
Debtor

Case No. _____

SCHEDULE C. PROPERTY CLAIMED AS EXEMPT

Debtor elects the exemptions to which debtor is entitled under:

[Check one box]

- ☒ 11 U.S.C. §522(b)(1): Exemptions provided in 11 U.S.C. §522(d). Note: These exemptions are available only in certain states.
☐ 11 U.S.C. §522(b)(2): Exemptions available under applicable nonbankruptcy federal laws, state or local law where the debtor's domicile has been located for the 180 days immediately preceding the filing of the petition, or for a longer portion of the 180-day period than in any other place, and the debtor's interest as a tenant by the entirety or joint tenant to the extent the interest is exempt from process under applicable nonbankruptcy law.

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Market Value of Property Without Deducting Exemption
<u>Checking, Savings, or Other Financial Accounts, Certificates of Deposit</u>			
Cash remaining from divorce settlement kept in Son's checking account at TCF Bank	11 U.S.C. § 522(d)(5)	6,300.00	6,300.00
Checking account at TCF Bank.	11 U.S.C. § 522(d)(5)	35.00	35.00
<u>Household Goods and Furnishings</u>			
Various household goods	11 U.S.C. § 522(d)(3)	2,300.00	2,300.00
<u>Wearing Apparel</u>			
clothing	11 U.S.C. § 522(d)(3)	1,000.00	1,000.00
<u>Alimony, Maintenance, Support, and Property Settlements</u>			
Monthly alimony support ordered, but debtor has recieved only one \$350 payment since her divorce in December 2003	11 U.S.C. § 522(d)(10)(D)	2,450.00	2,450.00
<u>Automobiles, Trucks, Trailers, and Other Vehicles</u>			
1995 Plymouth Voyager with 115,000 miles	11 U.S.C. § 522(d)(2)	0.00	1,300.00

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

BKY No. 04-44994

In re:

Donna Marie Maciazka,

UNSWORN CERTIFICATE OF SERVICE

Debtors.

I, Kari L., Fogarty, declare under penalty of perjury that on November 4, 2004 I mailed a copy of the Notice of Hearing and Motion for Objecting to Claimed Exemptions and proposed Order by first class mail, postage prepaid to each entity named below at the address stated below for each entity:

Donna Marie Maciazka
4911 Zenith Avenue North
Brooklyn Center, MN 55429

Thomas F. Miller
Thomas F. Miller, P.A.
130 Lake Street West
Wayzata, MN 55391

Office of the United States Trustee
1015 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

FULLER, SEAVER & RAMETTE, P.A.

Dated: November 4, 2004

By: /e/ Kari L. Fogarty
Kari L. Fogarty
Legal Secretary
12400 Portland Avenue South, Suite 132
Burnsville, MN 55337
(952) 890-0888

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

Bky No. 04-44994

In re:

Donna Marie Maciazka,

ORDER

Debtor.

At Minneapolis, Minnesota this _____ day of _____, 2004.

The above matter came before the court on the objection of the Chapter 7 Trustee to exemptions. Appearances were as noted upon the record.

Based upon all the files, records and proceedings herein,

IT IS HEREBY ORDERED:

That the Trustee's objection is sustained and the Debtor's claimed exemption of \$6,300 as "cash remaining from divorce settlement kept in son's checking account at TCF Bank" is denied.

BY THE COURT:

Nancy C. Dreher
U.S. Bankruptcy Judge